

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Magdalena Azmitia	Team: Squad #3	CCRB Case #: 201804885	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/11/2018 1:00 PM	Location of Incident: Inside § 87(2)(b) Inside the 76th Precinct stationhouse	Precinct: 76	18 Mo. SOL 10/11/2019	EO SOL 10/11/2019	
Date/Time CV Reported Wed, 06/06/2018 2:44 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Wed, 06/06/2018 2:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Mathews	04234	947234	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Francesco Ingoglia	15013	956759	PSA 1
2. SGT Anthony Manto	03567	940416	076 PCT
3. POF Jeanclaire Simmonds	26427	956261	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Mathews	Force: Police Officer Kevin Mathews used physical force against § 87(2)(b)	
B.POM Kevin Mathews	Abuse: Police Officer Kevin Mathews did not obtain medical treatment for § 87(2)(b)	

Case Summary

On an unknown date, § 87(2)(b) filed this complaint via mailed CCRB complaint form, which was received at the CCRB on June 6, 2018.

On April 11, 2018, at approximately 1:20 P.M., § 87(2)(b) was in front of a restaurant at Lorraine Street and Columbia Street in Brooklyn when he saw PO Kevin Mathews and PO Jean-Claire Simmonds, who are anti-crime officers of the 76th Precinct, in an unmarked vehicle stopped on the corner. As § 87(2)(b) was leaving the restaurant, one of the officers called his name, and he began running away from them. § 87(2)(b) ran into § 87(2)(b) and waited for the elevator. PO Mathews entered the building with approximately three other officers, including PO Simmonds and Sgt. Anthony Manto of the 76th Precinct, and placed § 87(2)(b) under arrest. As PO Mathews handcuffed § 87(2)(b) he allegedly grabbed § 87(2)(b)'s left arm, twisted it, and pulled it straight up and back behind his back with his palm facing up, causing pain (**Allegation A, Force:** § 87(2)(g)). The handcuffs were tight enough to cause § 87(2)(b) to lose feeling in his hand, although he did not notice it at the time. He was transported to the 76th Precinct stationhouse, where his arrest was processed, and he fell asleep in the holding cell. § 87(2)(b) woke up at approximately 2:00 P.M. and noted that he had lost all sensation in his left hand. He informed PO Mathews that he had no feeling in his hand and asked to go to the hospital. PO Mathews allegedly said that if § 87(2)(b) went to the hospital, his stay at the stationhouse would be longer, and also allegedly told § 87(2)(b) that he could either go to the hospital or have water to drink, but not both. (**Allegation B, Abuse of Authority:** § 87(2)(g)) § 87(2)(b) ultimately did not go to the hospital.

Findings and Recommendations

Allegation (A) Force: Police Officer Kevin Mathews used physical force against § 87(2)(b)

In his testimony to the CCRB, § 87(2)(b) stated that he had just come from IKEA when he first saw PO Mathews and PO Simmonds in their vehicle at Columbia Street and Lorraine Street [BR 02]. § 87(2)(b) ran away when one of the officers called his name because PO Mathews was always bothering him and had previously arrested him several times. PO Mathews and PO Simmonds pursued § 87(2)(b) on foot and did not issue any instructions or commands to him. At § 87(2)(b) § 87(2)(b) was waiting for the elevator when PO Mathews entered with PO Simmonds and Sgt. Manto. PO Mathews asked why § 87(2)(b) ran, as he was only going to tell § 87(2)(b) that he had to go to court. PO Mathews grabbed § 87(2)(b)'s left arm and pulled it straight up and back behind his back with his palm facing up. § 87(2)(b) noted that he was handcuffed tightly but did not experience pain at the time due to how the handcuff was secured. § 87(2)(b) lost feeling in his hand due to a lack of oxygen. He did not tell PO Mathews that the handcuffs were too tight because he did not realize it yet. He was transported to the 76th Precinct stationhouse and spent a total of approximately 30 minutes in handcuffs. § 87(2)(b) was placed in a holding cell and his handcuffs were removed before he was searched. He noted that the handcuffs left imprints on his wrists.

PO Mathews testified to the CCRB that he did not recall whether he had interacted with § 87(2)(b) before, but noted that he runs warrants every day and recognized § 87(2)(b) from a photo attached to an active warrant when he saw § 87(2)(b) at

Columbia Street and Lorraine Street [BR 07]. PO Mathews did not recall what the warrant was for at the time of his interview. § 87(2)(b)'s arrest report provides a docket number associated with the warrant, and an Office of Court Administration search revealed several misdemeanor and felony charges in regards [BR 12].) PO Mathews and PO Simmonds got out of their vehicle and did not make any statements before § 87(2)(b) began running away, and both officers pursued him on foot. A stop is not being pled given that the officers had probable cause to arrest § 87(2)(b) based on the warrant that was issued for him on April 9, 2018 [NYPD 07]. Sgt. Manto responded after the pursuit was put over the radio, although PO Mathews did not recall who put the message out or what was said over the radio, or precisely at what point Sgt. Manto arrived. PO Mathews chased § 87(2)(b) for approximately two blocks, after which § 87(2)(b) entered § 87(2)(b) although PO Mathews did not recall whether he personally saw § 87(2)(b) enter the building or if he was informed by another person. Sgt. Manto and PO Simmonds were in the vestibule of § 87(2)(b) with § 87(2)(b) while PO Mathews was locked outside of the building. PO Mathews noted that § 87(2)(b) is banned from New York City Housing developments but did not recall the reason for the ban. PO Mathews eventually entered the building, where he saw Sgt. Manto and PO Simmonds attempting to place § 87(2)(b) under arrest in the lobby. PO Mathews did not recall whether any other officers entered the building with him. § 87(2)(b) was flailing his arms and not allowing officers to handcuff him. PO Mathews did not recall whether § 87(2)(b) made any statements at the time. He did not recall whether any officers were issuing commands to § 87(2)(b) at the time. Sgt. Manto and PO Simmonds' hands were on § 87(2)(b)'s person, although PO Mathews did not recall what part of § 87(2)(b)'s body officers made contact with. PO Mathews did not recall whether § 87(2)(b) was already in handcuffs at the time he entered the building. He assisted in restraining § 87(2)(b) and his hands were on § 87(2)(b)'s person, although he did not recall which part of his person. PO Mathews did not twist § 87(2)(b)'s arm or pull it high behind his back.

PO Simmonds' testimony to the CCRB was consistent with that of PO Mathews, with the following exceptions [BR 09]. PO Simmonds was familiar with § 87(2)(b) from previous arrests as well as from intelligence packets. When § 87(2)(b) ran away from the officers, PO Mathews pursued him on foot while PO Simmonds got back into their vehicle and pursued him as well. PO Simmonds pursued § 87(2)(b) for approximately half a block, after which she got out of her vehicle near § 87(2)(b) and PO Mathews informed her that § 87(2)(b) had gone into the building. Sgt. Manto was also present and used his New York City Housing keys to allow himself and PO Simmonds to enter the building. PO Mathews was winded at the time and remained outside the building. Upon entering the building, PO Simmonds and Sgt. Manto saw § 87(2)(b) standing by the elevator, and PO Simmonds told him to put his hands up. PO Simmonds and Sgt. Manto grabbed § 87(2)(b)'s arms in an attempt to handcuff him, with Sgt. Manto grabbing the right arm and PO Simmonds grabbing the left arm. § 87(2)(b) moved and stiffened his arms in order to avoid being handcuffed, and PO Simmonds and Sgt. Manto attempted to control his arms. PO Simmonds did not recall who placed handcuffs on § 87(2)(b) but noted that she specifically remembered she did not handcuff him, as she had just gotten new handcuffs and did not have a key. Other officers entered the building approximately one minute after PO Simmonds and Sgt. Manto, although PO Simmonds did not recall who they were with the exception of PO Mathews, who assisted in handcuffing § 87(2)(b). PO Simmonds did not see where PO Mathews made contact with § 87(2)(b).

PO Simmonds did not recall at what point § 87(2)(b) was placed in handcuffs. She did not see PO Mathews twist § 87(2)(b)'s arm.

Sgt. Manto's testimony to the CCRB was consistent with that of PO Simmonds, with the following exceptions [BR 06]. Sgt. Manto heard anti-crime officers say over the radio that they were engaged in a foot pursuit at Columbia Street and Lorraine Street in Brooklyn. Sgt. Manto responded to the area, and saw PO Mathews and PO Simmonds pursuing § 87(2)(b) along Columbia Street. Sgt. Manto followed the foot pursuit and was informed by housing officers who had responded that § 87(2)(b) had run into § 87(2)(b). Sgt. Manto had keys to the building, was able to open the door and enter the building with PO Simmonds. PO Simmonds entered first and stated that § 87(2)(b) was there. The front door locked again behind Sgt. Manto, who, along with PO Simmonds, approached § 87(2)(b) and grabbed him to hold him in place. Sgt. Manto grabbed § 87(2)(b) by his back, while PO Simmonds opened the front door to let other officers inside. PO Mathews was among the officers to enter. Sgt. Manto noted that he waited for other officers to enter before placing § 87(2)(b) in handcuffs because § 87(2)(b) is a large individual. § 87(2)(b) was verbally resisting and asking what the officers were doing but was not physically struggling. Sgt. Manto did not recall who placed § 87(2)(b) in handcuffs and did not recall there being difficulty in doing so. Sgt. Manto did not see PO Mathews or any officer pull § 87(2)(b)'s arms up high behind his back or twist his arm during his arrest.

PO Francesco Ingoglia of Police Service Area 1, who also responded to § 87(2)(b), testified to the CCRB that he arrived at § 87(2)(b) in Brooklyn in response to a request for assistance by 76th Precinct anti-crime officers regarding a foot pursuit [BR 08]. Just as PO Ingoglia arrived, he heard over the radio that no further assistance was needed. PO Ingoglia remained outside of the building, where § 87(2)(b) was already in custody and inside of an RMP to be transported. PO Ingoglia did not interact with § 87(2)(b) during this incident and was unaware of any difficulty in apprehending or handcuffing § 87(2)(b). He resumed his patrol less than five minutes after arriving at the location.

NYPD Patrol Guide procedure 221-01 outlines the circumstances under which force may be used, and states that force may be used to ensure the safety of a member of service or a third person when it is reasonable to place a person in custody or prevent escape from custody [BR 14].

§ 87(2)(b), § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Kevin Mathews did not obtain medical treatment for § 87(2)(b)

In his testimony to the CCRB, § 87(2)(b) stated that after he was transported to the 76th Precinct stationhouse, he was placed in a holding cell where his handcuffs were removed, and he was searched [BR 02]. § 87(2)(b) briefly fell asleep in the holding cell and was sleeping on his right side. He woke up at approximately 2:00 P.M. and had no feeling or sensation in his left hand, wrist, or fingers. His fingers were curled and he could not move them. He told PO Mathews that he could not feel his hand and wanted to go to the hospital. PO Mathews told § 87(2)(b) that if he went to the hospital, his stay at the stationhouse would be longer. § 87(2)(b)

§ 87(2)(b) did not reply and did not ask PO Mathews or any other officers to go to the hospital again. § 87(2)(b) asked for water, and PO Mathews said that he could go to the hospital or he could be given water, but not both. He was never taken to a hospital. § 87(2)(b) noted that a woman named § 87(2)(b) who he knew from the area, was in another holding cell at the time. § 87(2)(b) saw a judge the following day, and his hand still had no feeling or sensation by the time he arrived at § 87(2)(b). Since the incident, § 87(2)(b) has experienced tightness in his knuckles and fingers, and is unable to put pressure on his hand or lift heavy objects. He noted that he has experienced neuropathy in his hands before when he fell asleep on them. § 87(2)(b) was not taken to a hospital but saw a doctor as § 87(2)(b) who told him that he had to see a neurologist. § 87(2)(b) did not get to see a neurologist there because he was transferred into a program before the appointment date.

The prisoner holding pen roster from the 76th Precinct noted that § 87(2)(b) and § 87(2)(b) were all lodged in the 76th Precinct holding cells at the same time and § 87(2)(b) stated during a phone call that she did not witness anything at the 76th Precinct stationhouse and that she has not been arrested since 1997 [BR 05].

§ 87(2)(b) stated during a phone call that he spent several nights at the 76th Precinct stationhouse and saw an individual partially matching § 87(2)(b)'s description sleeping in another holding cell [BR 03]. However, § 87(2)(b) was unable to specify on which night he saw the individual and did not witness him speaking to any officers.

§ 87(2)(b) stated during a phone call that there were several people in the holding cells on that day and that he did not recall anything that happened in the holding cell area [BR 04]. When asked if he heard any prisoner request medical attention from an officer, § 87(2)(b) stated that he may have seen a white male who asked for medical attention at Central Booking.

PO Mathews testified to the CCRB that at the 76th Precinct stationhouse, § 87(2)(b) was brought before the command desk, although PO Mathews did not recall the desk sergeant to whom § 87(2)(b) was presented [BR 07]. He did not recall who lodged § 87(2)(b) in the holding cells, or whether there was a holding cell attendant at the time. § 87(2)(b) was offered medical attention at the command desk, and § 87(2)(b) refused. PO Mathews did not recall who offered § 87(2)(b) medical attention. PO Mathews did not recall whether § 87(2)(b) independently requested medical attention after his arrest. § 87(2)(b) did not complain of any pain to his wrist or loss of sensation in his hand. PO Mathews did not recall telling § 87(2)(b) that if he went to the hospital, his stay at the stationhouse would be longer. PO Mathews did not tell § 87(2)(b) that he could either have water to drink or go to the hospital.

PO Simmonds testified to the CCRB that she did not have any contact with § 87(2)(b) at the stationhouse [BR 09]. PO Simmonds did not hear that § 87(2)(b) asked PO Mathews or any other officer to go to the hospital, and she did not hear that PO Mathews refused to take § 87(2)(b) to the hospital.

In his testimony to the CCRB, Sgt. Manto stated that officers from a patrol sector transported § 87(2)(b) in vehicle #4808, which he noted in the command log at the 76th Precinct stationhouse [BR 06]. Sgt. Manto did not recall whether § 87(2)(b) made any statements in the stationhouse but noted that he did not complain of any pain or injury and refused medical attention when it was offered to him. Sgt. Manto did not specifically recall asking § 87(2)(b) if he wanted medical attention but noted that he wrote in the command log that § 87(2)(b) had refused medical attention, which Sgt. Manto would not have written if he had not asked personally. Sgt. Manto did not recall having any further interaction with § 87(2)(b).

§ 87(2)(b) after speaking with him at the stationhouse. § 87(2)(b) was then placed in a holding cell. Sgt. Manto did not recall who the holding cell attendant was on that day and noted that there is not typically a dedicated holding cell attendant, as arresting officers normally watch their own prisoners. He did not recall hearing § 87(2)(b) ask PO Mathews to go to the hospital and did not hear § 87(2)(b) ask for medical attention at any point. Sgt. Manto did not hear any officer refuse to provide medical attention to § 87(2)(b).

The entry regarding § 87(2)(b)'s arrest in the 76th Precinct Command Log, which was prepared by Sgt. Manto, notes that § 87(2)(b) did not request medical attention when presented at the command desk [NYPD 06].

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 13].
- PO Mathews has been a member of service for 10 years and has been a subject of two CCRB complaints with four allegations, none of which were substantiated.

○ § 87(2)(g), § 87(4-b)

○ § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- On December 10, 2018, a Notice of Claim filed by § 87(2)(b) on § 87(2)(b) was provided by the Office of the New York City Comptroller [BR 11]. A request was submitted for 50-H hearing transcripts and will be added to the case file upon receipt.
- § 87(2)(b)

Squad No.: 3

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date